

1 COOLEY GODWARD KRONISH LLP  
2 GREGORY C. TENHOFF (154553)  
3 LISA BARNETT SWEEN (191155)  
4 ELIZA HOARD (238276)  
5 Five Palo Alto Square  
6 3000 El Camino Real  
7 Palo Alto, CA 94306-2155  
8 Telephone: (650) 843-5000  
9 Facsimile: (650) 849-7400

10 Attorneys for Defendants  
11 VAXGEN, INC. and LISA BROOKS

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

19 ARIA RAZBAN,

No. C 07-03136 JL

20 Plaintiff,

**DEFENDANTS' SEPARATE STATUS  
REPORT AND CASE MANAGEMENT  
STATEMENT, AND PROPOSED CASE  
MANAGEMENT ORDER PURSUANT TO  
F.R.C.P.26 (F) AND LOCAL RULE 16-9**

21 v.

22 VAXGEN, INC., a Delaware corporation,  
23 LISA BROOKS, and DOES 1 through 50,  
24 inclusive,

Defendants.

25 Pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 16-9, Defendants  
26 VaxGen, Inc. and Lisa Brooks submit the following Separate Status Report and Case  
27 Management Statement, Proposed Case Management Order and accompanying Declaration of  
28 Lisa Barnett Sween reflecting why the parties were unable, despite reasonable efforts, to file a  
joint F.R.C.P. 26(f) Report and Case Management Conference Statement.

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1 **PRELIMINARY CONFERENCE.**

2 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, a telephone conference  
 3 was held on August 22, 2007 that was attended by Ira Leshin, Esq. for Plaintiff Aria Razban  
 4 ("Razban") and Gregory Tenhoff, Esq. for Defendants VaxGen, Inc. and Lisa Brooks  
 5 ("Defendants"). Below are the agreements of the parties based on their August 22 conference in  
 6 addition to any proposed items by Defendants:

7 **I. INITIAL DISCLOSURES.**

8 The parties agreed to stipulate to exchange initial disclosures pursuant to Rule 26(a)(1) on  
 9 or before September 10, 2007.

10 **II. DISCOVERY PLAN AND CASE MANAGEMENT SCHEDULE.**

11 The parties agreed that discovery will take place as set forth in the Federal Rules of Civil  
 12 Procedure. The parties agreed to the following discovery plan and case management schedule:

13 • The parties agreed that the first deposition will be the deposition of Plaintiff by  
 14 Defendants, followed by Plaintiff's deposition of Defendant Lisa Brooks. After these  
 15 depositions, the parties may notice any other depositions as they deem necessary subject to the  
 16 Federal Rules of Civil Procedure.

17 • The parties agreed that they may serve written discovery requests on one another  
 18 or third parties pursuant to the Federal Rules of Civil Procedure.

19 Defendants propose the following discovery deadlines:

- 20 • Discovery Cutoff Date: February 1, 2008
- 21 • Date for Expert Disclosures: March 3, 2008
- 22 • Last Day to serve Dispositive Motions: April 25, 2008
- 23 • Date for Expert Discovery Cutoff: May 30, 2008
- 24 • Last Day for Hearing on Dispositive Motions: May 30, 2008
- 25 • Pre-trial Conference: As set by the Court  
pursuant to Local Rule 16-10

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1      **III. NO PROPOSED DISCOVERY CHANGES**

2              The parties did not propose or agree to any changes in the limitation, scope or schedule of  
3              discovery as set forth in the Federal Rules of Civil Procedure.

4      **IV. EVIDENCE PRESERVATION.**

5              Defendants have taken reasonable measures to preserve relevant evidence.

6      **V. CONFIDENTIALITY – PROTECTIVE ORDER.**

7              The parties are negotiating the terms of a stipulated protective order to govern the  
8              protection of confidential and/or proprietary information in this case.

9      **VI. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES.**

10           Pursuant to Local Rule 73-1(a)(1), Defendants will file by September 12, 2007 their  
11           written Consent To Proceed Before A United States Magistrate Judge.

12      **VII. ADR.**

13           The parties filed a Joint ADR Certification By Parties and Counsel, Stipulation and  
14           Proposed Order Selecting an ADR Process, namely Early Neutral Evaluation pursuant to ADR  
15           Local Rule 5, on August 24, 2007. The parties agreed to hold the ADR session within 90 days  
16           after referral to ENE pursuant to ADR Local Rule 5-4(b).

17      **VIII. SETTLEMENT.**

18           Defendants propose a settlement conference in front of a Magistrate Judge. If the parties  
19           can agree to attend, the settlement conference should take place after discovery has been  
20           completed.

21      **IX. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS.**

22           Defendants filed their “Certification of Interested Entities of Persons” pursuant to Local  
23           Rule 3-16 on June 14, 2007 when they removed the case to this Court. Defendants disclosed at  
24           that time that Defendants’ insurer, National Union Fire Insurance Company of Pittsburgh, PA,  
25           may provide coverage for certain claims in this action and that National Union Fire Insurance  
26           Company of Pittsburgh, PA is wholly owned by American International Group, Inc., a publicly-  
27           held corporation listed on the New York Stock Exchange.

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## X. TRIAL.

Plaintiff requested a jury trial in the First Amended Complaint. Defendants propose that the trial be scheduled no sooner than July 1, 2008. Defendants estimate that trial in this case will take ten (10) court days.

Dated: September 5, 2007

COOLEY GODWARD KRONISH LLP

By: Eliza Hand for  
Lisa Barnett Sween

Attorneys for Defendants  
VAXGEN, INC. and LISA BROOKS

## IT IS SO ORDERED:

Dated: , 2007

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Honorable James Larson  
United States Magistrate Judge

**PROOF OF SERVICE**  
**(FRCP 5)**

I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley Godward Kronish LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800. My e-mail address is [keudaley@cooley.com](mailto:keudaley@cooley.com). On the date set forth below I served the documents described below in the manner described below:

**DEFENDANTS' SEPARATE STATUS REPORT AND CASE MANAGEMENT STATEMENT, AND  
PROPOSED CASE MANAGEMENT ORDER PURSUANT TO F.R.C.P.26 (F) AND LOCAL  
RULE 16-9**

(BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.

(BY MESSENGER SERVICE) by consigning the document(s) to an authorized courier and/or process server for hand delivery on this date.

(BY FAXSIMILE) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of document(s) to be transmitted by facsimile and I caused such document(s) on this date to be transmitted by facsimile to the offices of addressee(s) at the numbers listed below.

(BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by \_\_\_\_\_ for overnight delivery.

(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley Godward Kronish LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

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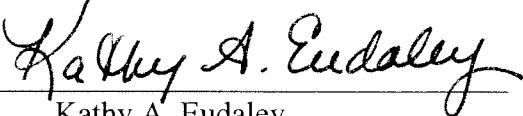
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1 on the following parties in this action:

2 Ira Leshin, Esq.  
3 LAW OFFICES OF IRA LESHIN  
4 220 Sansome Street, 6th Floor  
5 San Francisco, CA 94104  
6 Tel: (415) 398-3950  
7 Fax: (415) 398-1567  
8 email: [iraleshin@aol.com](mailto:iraleshin@aol.com)

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10 Executed on September 5, 2007, at San Francisco, California.

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13 Kathy A. Eudaley  
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